

Union Calendar No. 168

113TH CONGRESS
1ST SESSION

H. R. 2374

[Report No. 113–228, Part I]

To amend the Securities Exchange Act of 1934 to provide protections for retail customers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2013

Mrs. WAGNER introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 25, 2013

Additional sponsor: Mr. MURPHY of Florida

SEPTEMBER 25, 2013

Reported from the Committee on Financial Services with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 25, 2013

The Committee on Education and the Workforce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend the Securities Exchange Act of 1934 to provide
protections for retail customers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Retail Investor Protec-
 5 tion Act”.

6 **SEC. 2. STAY ON RULES DEFINING CERTAIN FIDUCIARIES.**

7 After the date of enactment of this Act, the Secretary
 8 of Labor shall not prescribe any regulation under the Em-
 9 ployee Retirement Income Security Act of 1974 (29
 10 U.S.C. 1001 et seq.) defining the circumstances under
 11 which an individual is considered a fiduciary until the date
 12 that is 60 days after the Securities and Exchange Com-
 13 mission issues a final rule relating to standards of conduct
 14 for brokers and dealers pursuant to the second subsection
 15 (k) of section 15 of the Securities Exchange Act of 1934
 16 (15 U.S.C. 78o(k)).

17 **SEC. 3. AMENDMENTS TO THE SECURITIES EXCHANGE ACT**
 18 **OF 1934.**

19 The second subsection (k) of section 15 of the Securi-
 20 ties Exchange Act of 1934 (15 U.S.C. 78o(k)), as added
 21 by section 913(g)(1) of the Dodd-Frank Wall Street Re-
 22 form and Consumer Protection Act (12 U.S.C. 5301 et
 23 seq.), is amended by adding at the end the following:

1 ~~“(3) REQUIREMENTS PRIOR TO RULEMAKING.—~~

2 The Commission shall not promulgate a rule pursu-
3 ant to paragraph ~~(1)~~ before—

4 ~~“(A) identifying if retail customers (and~~
5 ~~such other customers as the Commission may~~
6 ~~by rule provide) are being systematically~~
7 ~~harmed or disadvantaged due to brokers or~~
8 ~~dealers operating under different standards of~~
9 ~~conduct than those standards that apply to in-~~
10 ~~vestment advisors under section 211 of the In-~~
11 ~~vestment Advisers Act of 1940 (15 U.S.C. 80b-~~
12 ~~11);~~

13 ~~“(B) identifying whether the adoption of a~~
14 ~~uniform fiduciary standard of care for brokers~~
15 ~~or dealers and investment advisors would ad-~~
16 ~~versely impact retail investor access to personal-~~
17 ~~ized investment advice; recommendations about~~
18 ~~securities; or the availability of such advice and~~
19 ~~recommendations;~~

20 ~~“(C) conducting an assessment by the~~
21 ~~chief economist of the Commission that assesses~~
22 ~~the qualitative and quantitative costs and bene-~~
23 ~~fits of the rule; and~~

24 ~~“(D) the Commission, based on the assess-~~
25 ~~ment described in subparagraph (B)—~~

1 “(i) determines that the benefits of
2 the rule justify its costs;

3 “(ii) identifies and assesses available
4 alternatives to the rule that were consid-
5 ered, including modification of an existing
6 regulation, simplification of disclosures re-
7 garding standards of care that apply to
8 brokers or dealers and those that apply to
9 investment advisors, together with an ex-
10 planation of why the rule meets the regu-
11 latory objectives more effectively than the
12 alternatives; and

13 “(iii) ensures that the rule is acces-
14 sible, consistent, written in plain language,
15 and easy to understand; and that the rule
16 shall measure and seek to improve the ac-
17 tual results of regulatory requirements.

18 “(4) REQUIREMENTS FOR PROMULGATING A
19 RULE.—The Commission shall publish in the Fed-
20 eral Register alongside the rule promulgated pursu-
21 ant to paragraph (1) formal findings that such rule
22 would reduce the confusion of a retail customer (and
23 such other customers as the Commission may by
24 rule provide) about standards of conduct applicable
25 to brokers, dealers, and investment advisors.

1 ~~“(5) REQUIREMENTS UNDER INVESTMENT AD-~~
2 ~~VISERS ACT OF 1940.—In proposing rules under~~
3 ~~paragraph (1) for brokers or dealers, the Commis-~~
4 ~~sion shall consider the differences in the registration,~~
5 ~~supervision, and examination requirements applica-~~
6 ~~ble to brokers, dealers, and investment advisors.”.~~

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Retail Investor Protec-*
9 *tion Act”.*

10 **SEC. 2. STAY ON RULES DEFINING CERTAIN FIDUCIARIES.**

11 *After the date of enactment of this Act, the Secretary*
12 *of Labor shall not prescribe any regulation under the Em-*
13 *ployee Retirement Income Security Act of 1974 (29 U.S.C.*
14 *1001 et seq.) defining the circumstances under which an*
15 *individual is considered a fiduciary until the date that is*
16 *60 days after the Securities and Exchange Commission*
17 *issues a final rule relating to standards of conduct for bro-*
18 *kers and dealers pursuant to the second subsection (k) of*
19 *section 15 of the Securities Exchange Act of 1934 (15 U.S.C.*
20 *78o(k)).*

21 **SEC. 3. AMENDMENTS TO THE SECURITIES EXCHANGE ACT**
22 **OF 1934.**

23 *The second subsection (k) of section 15 of the Securities*
24 *Exchange Act of 1934 (15 U.S.C. 78o(k)), as added by sec-*
25 *tion 913(g)(1) of the Dodd-Frank Wall Street Reform and*

1 *Consumer Protection Act (12 U.S.C. 5301 et seq.), is*
2 *amended by adding at the end the following:*

3 “(3) *REQUIREMENTS PRIOR TO RULEMAKING.—*
4 *The Commission shall not promulgate a rule pursu-*
5 *ant to paragraph (1) before—*

6 “(A) *identifying if retail customers (and*
7 *such other customers as the Commission may by*
8 *rule provide) are being systematically harmed or*
9 *disadvantaged due to brokers or dealers oper-*
10 *ating under different standards of conduct than*
11 *those standards that apply to investment advi-*
12 *sors under section 211 of the Investment Advisers*
13 *Act of 1940 (15 U.S.C. 80b-11); and*

14 “(B) *identifying whether the adoption of a*
15 *uniform fiduciary standard of care for brokers or*
16 *dealers and investment advisors would adversely*
17 *impact retail investor access to personalized in-*
18 *vestment advice, recommendations about securi-*
19 *ties, or the availability of such advice and rec-*
20 *ommendations.*

21 “(4) *REQUIREMENTS FOR PROMULGATING A*
22 *RULE.—The Commission shall publish in the Federal*
23 *Register alongside the rule promulgated pursuant to*
24 *paragraph (1) formal findings that such rule would*
25 *reduce the confusion of a retail customer (and such*

1 *other customers as the Commission may by rule pro-*
2 *vide) about standards of conduct applicable to bro-*
3 *kers, dealers, and investment advisors.*

4 *“(5) REQUIREMENTS UNDER INVESTMENT ADVIS-*
5 *ERS ACT OF 1940.—In proposing rules under para-*
6 *graph (1) for brokers or dealers, the Commission shall*
7 *consider the differences in the registration, super-*
8 *vision, and examination requirements applicable to*
9 *brokers, dealers, and investment advisors.”.*

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